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SUBJECT: EU FMS' MEETING: KEY AGENDA ITEMS AND DEMARCHE  
RESPONSE

REF: STATE 104199

Classified By: Rick Holtzapple, PolOff, Reasons 1.4 B/D

SUMMARY

1. (C) The EU FMS' General Affairs and External Relations Council (GAERC) meeting on May 17-18 will devote much of its time to Intergovernmental Conference (IGC) debates on the draft EU Constitutional Treaty. Ministers (with their Defense colleagues also participating) will also focus on ESDP issues, including plans to set up a European defense agency and a review of capabilities under the Headline Goals. Over lunch, the Foreign Ministers will have a broad discussion of the Middle East. Conclusions will likely track with the outcome of the May 4 Quartet meeting, but discussion could also cover the situation in Iraq and the issue of abuse of prisoners. The meeting may also decide on new language for a non-proliferation clause to finalize an EU-Syria Association Agreement and issue Conclusions deploring recent death sentences for five Bulgarian nurses in Libya. Other topics for the meeting will be the Western Balkans, with a focus on Kosovo, and preparations for upcoming EU Summit meetings with Latin America and Russia. One possible additional GAERC topic could be a Danish request to have the EU discuss the upcoming roll-over of the UNSC's exemption for the US from ICC jurisdiction, although it is not clear that EU UNSC members will be interested in having any EU constraints put on them. The EU will also hold meetings with Turkey, Ukraine and the Gulf Cooperation Council on the fringes of the session. END SUMMARY

2. (SBU) PolOff delivered reftel points to the Council Secretariat's US desk and Nick Banner in External Relations

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Commissioner Patten's cabinet on May 13. We also attended a background briefing on May 14 about the GAERC agenda by Irish Perm Rep Anne Anderson.

IGC

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3. (SBU) Anderson and other IGC sources have told us that much of next week's FMs' meeting will be taken up by IGC negotiations. The Irish Presidency has made significant progress over the last few weeks at the senior officials level to resolve many issues, but over a dozen unresolved questions remain, and a successful conclusion to the IGC is still not guaranteed. Among key issues FMs will address next week are whether the number of issues that would be covered by qualified majority voting (QMV) rather than unanimity in the Council will be further expanded, and who would chair many of the ministerial level Council formations under a new treaty. The biggest remaining IGC issue -- the voting formula that would be used for QMV -- will not be addressed by FMs. It will only be addressed at the EU Summit on June 17.

MIDDLE EAST AND IRAQ

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4. (SBU) Both Anderson and Banner said the GAERC Conclusions should track quite closely with the statement from the May 4 Quartet meeting. Anderson also noted that the lunch discussion of the issues would also cover recent developments in Iraq, including the incidents of prisoner abuse. It was not clear what type of language might or might not be included in GAERC Conclusions, but Anderson noted that PM Ahern had already spoken on behalf of the Presidency about "the abuse and degradation inflicted on Iraqi prisoners by members of the coalition military forces" as well as the killing of civilians by terrorist factions.

ESDP

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5. (U) The joint FMs/DefMins session will be largely an opportunity to "take stock" of the overall development of ESDP in the past six months, including progress on a variety of capabilities efforts including the 2010 Headline Goal, the Rapid Response Force and the 2004 Force Catalogue. The GAERC will also take note of proposals by the European Defense Agency's Establishment Team, with a view to a formal decision

to establish the Agency in June and the Agency actually beginning its work by the end of 2004.

#### RUSSIA AND EU NEIGHBORHOOD

16. (C) Banner said that the agenda for the EU-Russia Summit on May 21 in Moscow has been largely agreed. The focus will be on work toward more detailed and concrete "action plans" for setting up the four proposed "common spaces" between the EU and Russia. On Chechnya Banner anticipated "the usual discussion" where the EU would express its concerns, with the Russians responding "not so politely" that it was none of the EU's business, and then go on to raise concerns about Russian-speaking minorities within the EU. On the latter issue, Patten had sent a letter to Moscow on May 13 laying out all the EU's programs to assist and protect minority rights, but the Duma continues to "stir things up."

17. (C) Concerning Russian involvement in Moldova and Georgia, Banner commented that reftel points "could be our speaking notes." He acknowledged the EU did not have much of a stick available to secure improved Russian behavior, but was hopeful Putin might eventually realize the benefits of delivering on Moscow's commitments so as to avoid the kind of risks that could emerge if these places increasingly become "failed states." Kees van Rij, the Council Policy Unit's chief for Russia, told us May 14 the EU would adopt "a more active line" on Moldova and that the Irish would likely demarche the Russians soon on the need to re-launch five-party talk. Van Rij said they hoped to do this prior to the EU-Russia Summit to set the stage for an approach directly to Putin.

18. (SBU) Banner said that the EU was pleased that increased EU-US coordination in countries such as Moldova, Ukraine and Belarus was underway, and said the EC felt that particularly in Belarus it appeared to be having some impact. As for the EU's Neighborhood Initiative (which was approved by the Commission on May 12, but will only be presented to the Council on May 17 without serious discussion), Banner observed that extending it to cover the Caucasus was an "obvious and necessary political gesture, but it is not trouble-free." There is serious question whether the Georgian government has the administrative capacity to undertake the legislative approximation and other steps that the initiative should eventually encompass. Therefore, assuming the Council approves the Commission proposal to bringing the region into the program, the first attempts at an action plan with Georgia would "not be very far-reaching."

#### BALKANS

19. (U) Anderson noted that the GAERC Conclusions would cover several items, including a request to the Commission to begin preparing an opinion on Macedonia's EU membership application (a process that will take well over a year), and approval of the Commission's proposals for "European Partnerships" with all of the Balkan states. Banner and other Council sources told us that the only item FMs will probably discuss would be Kosovo policy, but it is still to be confirmed whether UNMIK SRSG Holkeri will attend this portion of the GAERC.

#### TURKEY/CYPRUS

10. (C) Neither is on the GAERC agenda, but the EU Association Council with Turkey will be held on May 18. Banner commented that Turkey was "in about as comfortable a spot as it can be on the Cyprus issue -- no one is blaming it." Therefore, he said it was a good thing that the GoT now appeared focused on continuing internal reforms, although the Leyla Zana case had been "a serious setback." Patten continues to be supportive of a positive Commission report on Turkey in October, and while "some Commissioners are no friends of Turkey", Banner said Patten believed the report would be a good one barring some negative event in the meantime. On Cyprus, the Commission is still working on "the precise details" of how it can ease trade restrictions, and it was unlikely the Greek Cypriots would be obstructive. But more political measures were "harder." Even a step such as opening a Commission delegation in the north posed "legal problems."

#### LATIN AMERICA

11. (SBU) Banner noted that different EU Member States held different positions on how eager the EU should be about regional free trade agreements. Member States also disagreed about how strict the EU's conditionality regarding better regional integration should be.

#### POSSIBLE OTHER BUSINESS: LIBYA, SYRIA, ICC, SUDAN, BURMA

12. (C) An unusually large number of "other business" items may still possibly be added to the GAERC agenda. Conclusions are likely condemning the recent death sentences in Libya for five Bulgarian nurses accused of infecting children with HIV. The GAERC may also try and reach final agreement on a non-proliferation clause for the EU-Syria Association Agreement currently under negotiation. Some Member States may be interested in raising recent developments in Sudan and Burma. The Danish FM has also suggested the EU should discuss its position regarding a possible UNSC roll-over of the U.S. exemption from the ICC's jurisdiction under UN operations, prior to the issue coming up again in the next couple of months in the UNSC. Banner commented that he doubted the EU states on the UNSC would want their margin of maneuver on the issue to be restricted.

SCHNABEL